

**ASSEMBLY BILL**

**No. 67**

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**Introduced by Assembly Member Dymally**

December 4, 2006

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An act to amend Sections 7292, 7295, 7295.4, 7296, 7296.4, 7299.1, 7299.4, 7299.5, and 7299.8 of the Government Code, relating to bilingual services.

LEGISLATIVE COUNSEL'S DIGEST

AB 67, as introduced, Dymally. State and local agencies: bilingual services.

Existing law requires local and state agencies to provide information regarding public services in a non-English language if a substantial number of the public served by the agency are non-English-speaking people. Existing law also requires state agencies to provide reports to the State Personnel Board regarding the provision of information in a non-English language, subject to certain exceptions by the State Personnel Board.

This bill would provide that a person is qualified as a bilingual person, employee, or interpreter for these purposes if the State Personnel Board has tested and certified the person or approved the testing and certification. The bill would provide that local agencies would have discretion to determine who is qualified to provide information in a non-English language. The bill would also authorize additional grounds for the State Personnel Board to exempt state agencies from the reporting requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7292 of the Government Code is amended to read:

7292. Every state agency, as defined in Section 11000, except the State Compensation Insurance Fund, directly involved in the furnishing of information or the rendering of services to the public whereby contact is made with a substantial number of non-English-speaking people, shall employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person. *Information or services subject to this chapter shall include public safety, protection, and prevention; access to state benefits and public programs; resources and facilities; and any other state program or activity in which the public good is served.*

SEC. 2. Section 7295 of the Government Code is amended to read:

7295. Any materials explaining services available *to the public* shall be translated into any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. The determination of when these materials are necessary when dealing with local agencies shall be left to the discretion of the local agency.

SEC. 3. Section 7295.4 of the Government Code is amended to read:

7295.4. Whenever a state agency finds that the factors listed in both subdivisions (a) and (c) or (b) and (c) exist, it shall distribute the applicable written materials in the appropriate non-English language through its local offices or facilities to non-English-speaking persons, or, as an alternative, the state agency may instead elect to furnish translation aids, translation guides, or provide assistance, *through use of a qualified bilingual person, at such its local offices or facilities* in completing English forms or questionnaires and in understanding English forms, letters, or notices. :

1 (a) The written materials, whether forms, applications,  
2 questionnaires, letters, or notices; solicit or require the furnishing  
3 of information from an individual or provide that individual with  
4 information.

5 (b) The information solicited, required, or furnished affects or  
6 may affect the individual's rights, duties, or privileges with regard  
7 to that agency's services or benefits.

8 (c) The local office or facility of the agency with which the  
9 individual is dealing, serves a substantial number of  
10 non-English-speaking persons.

11 SEC. 4. Section 7296 of the Government Code is amended to  
12 read:

13 7296. (a) As used in this chapter, a ~~“bilingual person”~~  
14 *“qualified bilingual person,” “qualified bilingual employee,” or*  
15 *“qualified interpreter”* is a person who is proficient in both the  
16 English language and the foreign language to be used. *For any*  
17 *state agency, “qualified” means one of the following:*

18 (1) *A person who the State Personnel Board has tested and*  
19 *certified.*

20 (2) *A person who was tested and certified by a state agency or*  
21 *other testing authority approved by the State Personnel Board.*

22 (3) *A person who has met the testing or certification standards*  
23 *established by the State Personnel Board for outside or contract*  
24 *interpreters, as proficient in both the English language and the*  
25 *foreign language to be used.*

26 (b) *The determination of what constitutes “qualified” for local*  
27 *agencies, shall be left to the discretion of the local agency.*

28 SEC. 5. Section 7296.4 of the Government Code is amended  
29 to read:

30 7296.4. As used in Section 7292, “a sufficient number of  
31 qualified bilingual persons in public contact positions” is the  
32 number required to provide the same level of services to  
33 non-English-speaking persons as is available to English-speaking  
34 persons seeking ~~such these~~ services; ~~provided, however, that~~  
35 ~~however,~~ where the local office or facility of the state employs the  
36 equivalent of 25 or fewer regular, full-time employees, it shall  
37 constitute compliance with the requirements of this chapter if a  
38 sufficient number of qualified bilingual persons are employed in  
39 public contact positions, or as *qualified* interpreters to assist those  
40 in ~~such those~~ positions, to provide the same level of services to

1 non-English-speaking persons as is available to English-speaking  
2 persons seeking ~~such~~ *the* services from ~~such~~ *the* office or facility.

3 SEC. 6. Section 7299.1 of the Government Code is amended  
4 to read:

5 7299.1. State agencies may, utilizing existing funds, contract  
6 for telephone based interpretation services in addition to employing  
7 *qualified* bilingual persons in public contact positions.

8 SEC. 7. Section 7299.4 of the Government Code is amended  
9 to read:

10 7299.4. (a) Notwithstanding any other provision in this chapter,  
11 each state agency shall conduct an assessment and develop and  
12 update an implementation plan that complies with the requirements  
13 of this chapter.

14 (b) Each agency shall conduct a survey of each of its local  
15 offices every two years to determine all of the following:

16 (1) The number of public contact positions in each local office.

17 (2) The number of *qualified* bilingual employees in public  
18 contact positions in each local office, and the languages they speak,  
19 other than English.

20 (3) The number and percentage of non-English-speaking people  
21 served by each local office, broken down by native language.

22 (4) The number of anticipated vacancies in public contact  
23 positions.

24 (5) Whether the use of other available options, including  
25 contracted telephone based interpretation services, in addition to  
26 *qualified* bilingual persons in public contact positions, is serving  
27 the language needs of the people served by the agency.

28 (6) A list of all written materials that are required to be translated  
29 or otherwise made accessible to non- or limited-English-speaking  
30 individuals by Sections 7295.2 and 7295.4.

31 (7) A list of materials identified in paragraph ~~(5)~~ (6) that have  
32 been translated and languages into which they have been translated.

33 (8) The number of additional *qualified* bilingual public contact  
34 staff, if any, needed at each local office to comply with this chapter.

35 (9) Any other relevant information requested by the State  
36 Personnel Board.

37 (c) Each agency shall calculate the percentage of  
38 non-English-speaking people served by each local office by  
39 rounding the percentage arrived at to the nearest whole percentage  
40 point.

1 The survey results shall be reported on forms provided by the  
2 State Personnel Board, and delivered to the board not later than  
3 March 31 of every even-numbered year beginning with 1992.

4 (d) Beginning in 2003 and in every even-numbered year  
5 thereafter, each state agency shall develop an implementation plan  
6 that, at a minimum, addresses all of the following:

7 (1) The name, position, and contact information of the employee  
8 designated by the agency to be responsible for overseeing  
9 implementation of the plan.

10 (2) A description of the agency's procedures for identifying  
11 written materials that need to be translated.

12 (3) A description of the agency's procedures for identifying  
13 language needs at local offices and assigning qualified bilingual  
14 staff.

15 (4) A description of how the agency recruits qualified bilingual  
16 staff.

17 (5) A description of any training the agency provides to its staff  
18 on the provision of services to non- or limited-English-speaking  
19 individuals.

20 (6) A detailed description of how the agency plans to address  
21 any deficiencies in meeting the requirements of this chapter,  
22 including, but not limited to, the failure to translate written  
23 materials or employ sufficient numbers of qualified bilingual  
24 employees in public contact positions at local offices, the proposed  
25 actions to be taken to address the deficiencies, and the proposed  
26 dates by when the deficiencies can be remedied.

27 (7) A description of the agency's procedures for accepting and  
28 resolving complaints of an alleged violation of this chapter.

29 (8) A description of how the agency complies with any federal  
30 or other state laws that require the provision of linguistically  
31 accessible services to the public.

32 (9) Any other relevant information requested by the State  
33 Personnel Board.

34 (e) In developing its implementation plan in 2003, each state  
35 agency may rely upon data gathered from its 2002 survey.

36 (f) Each state agency shall submit its implementation plan to  
37 the State Personnel Board no later than October 1 of each  
38 applicable year. The board shall review each plan, and, if it  
39 determines that the plan fails to address the identified deficiencies,  
40 the board shall order the agency to supplement or make changes

1 to its plan. A state agency that has been determined to be deficient  
2 shall report to the State Personnel Board every six months on its  
3 progress in addressing the identified deficiencies.

4 (g) If the board determines that a state agency has not made  
5 reasonable progress toward complying with this chapter, the board  
6 may issue orders that it deems appropriate to effectuate the  
7 purposes of this chapter.

8 SEC. 8. Section 7299.5 of the Government Code is amended  
9 to read:

10 7299.5. The State Personnel Board may exempt state agencies  
11 from the requirements of Section 7299.4, where the State Personnel  
12 Board determines that any of the following conditions apply:

13 (a) ~~The agency's primary mission does not furnish~~  
14 ~~include responsibility for furnishing information or render~~  
15 ~~rendering services to the public.~~

16 (b) The agency has consistently received such limited public  
17 contact with the non-English speaking public that it has not been  
18 required to employ bilingual staff under Section 7292.

19 (c) *The agency employs fewer than the equivalent of 25 full-time*  
20 *public contact employees.*

21 In order to receive an exemption, each state agency ~~must annually~~  
22 *shall* petition the State Personnel Board for the exemption and  
23 receive approval in writing *by the date established by the board.*  
24 An agency may ~~not~~ receive an exemption ~~for more than three up~~  
25 ~~to five consecutive years surveys or implementation plans, if it~~  
26 *demonstrates that it meets the requirements of subdivision (a), (b),*  
27 *or (c), and provides all required documentation to the State*  
28 *Personnel Board.*

29 SEC. 9. Section 7299.8 of the Government Code is amended  
30 to read:

31 7299.8. It is not the intent of the Legislature in enacting this  
32 chapter to prohibit the establishment of bilingual positions, or  
33 printing of materials, or use of *qualified* interpreters, where less  
34 than 5 percent of the people served do not speak English or are  
35 unable to communicate effectively, as determined appropriate by  
36 the state or local agency. It is not the intent of the Legislature in  
37 enacting this chapter to require that all public contact positions be  
38 filled with *qualified* bilingual persons.

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